

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

DAVID SUTHERLAND,

Plaintiff,

v.

Case No. CV412-239

CHATHAM COUNTY DISTRICT
ATTORNEY, LARRY CHISOLM
INDIVIDUALLY AND
PROFESSIONALLY, *et al.*,

Defendants.

ORDER

This Court granted *pro se* plaintiff David Sutherland's motion to extend the time within which to respond to defendants' motions to dismiss and to stay, directing his response by December 31, 2012. Doc. 32. The Court had also previously warned him that he was subject to Fed. R. Civ. P. 11 sanctions for bringing and continuing a maliciously frivolous lawsuit. Doc. 25 at 2-3.

Now Sutherland moves to dismiss his case without prejudice, claiming health problems. Doc. 33. "Due to these health issues, Plaintiff is unable to proceed at this time, and fears that these

proceedings would not only put Plaintiff's health at great risk, but that Plaintiff would also be incapable of representing himself in a manner to further the interests of the claim." *Id.* at 1.

The time for defendants to respond to this motion has not yet elapsed. But since Sutherland forced them to respond to his complaint, they have a right to object, if not demand conditions for withdrawal. Fed. R. Civ. P. 41(a)(2). To better assist the evaluation of Sutherland's motion, he is directed to, within 14 days of the date this Order is served, detail the specifics of his illness, including any diagnosis and the name of any health care provider he has been using. He shall sign that showing under 28 U.S.C. § 1746 (permitting written, unsworn declaration subscribed in proper form as true under penalty of perjury to substitute for an affidavit). Failure to respond may result in a dismissal with prejudice under Rule 41(b).

SO ORDERED, this 12th day of December, 2012.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA